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PATENT

Customer No. 22,852

Attorney Docket No. 3626.0034-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Bruce NOVICH, et al.

Application No.: 09/620,525

Filed: July 20, 2000

For: IMPREGNATED GLASS FIBER
STRANDS AND PRODUCTS
INCLUDING THE SAME

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

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) Group Art Unit: 1774
)
) Examiner: J. Gray
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RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated June 12, 2002, the Examiner required restriction under 35 U.S.C. § 121 between Group I, claims 1-43, and Group II, claims 44-63.

In response, Applicants hereby elect Group I, claims 1-43, with traverse.

The Examiner has also identified what the Examiner characterizes as patentably distinct species in each of Groups I and II. Applicants further elect the "species" wherein component (a) is selected from lamellar particles, and, if a single species of lamellar particles is required, boron nitride. At least claims 1-8, 13, 14 and 18-43 read on the elected invention.

Applicants also fulfill this election-of-species requirement with traverse.

Moreover, this election was made with the understanding that, if the elected species is found allowable, the Examiner will continue to examine the full scope of the pending

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claims to the extent necessary to determine the patentability of these pending claims, i.e., extending the search to a reasonable number of the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121..

Applicants respectfully request reconsideration of the Restriction and Election of Species Requirement for the following reasons. In order for a Restriction and Election of Species Requirement to be proper under 35 U.S.C. § 121, two requirements must be met, including that the Examiner show why there would be a serious burden on the Examiner in examining the claims together. M.P.E.P. § 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions.")

In the present case, Applicants respectfully point out that such a burden does not exist, nor has the Examiner even alleged that such a burden exists. Specifically, the Examiner has not provided any explanation in the Restriction Requirement or the Election of Species Requirement why there would be a serious burden were both groups, or all identified species, examined together. Moreover, Applicants respectfully submit that the Examiner previously examined and rejected all the pending claims in the Office Action dated October 4, 2001, thus evidencing that, in fact, no burden exists to examine all pending claims 1-63.

Accordingly, Applicants point out that the Restriction and Election of Species Requirement is clearly improper, and request that it be withdrawn.

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Please grant any extensions of time required to enter this response and charge
any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: July 11, 2002

By: 

Mark D. Sweet
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